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6 Attorneys for Defendant  
7 COSTCO WHOLESALE CORPORATION

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 ERNEST MARSON,

12 Plaintiff,

13 vs.

14 COSTCO WHOLESALE CORPORATION,  
Does 1 to 20, inclusive,  
15 Defendants.  
16

Case No. 4:19-cv-04737-HSG

**STIPULATION TO EXTEND DEADLINE  
FOR FACT DISCOVERY AND  
DISCLOSURE OF EXPERT WITNESS  
INFORMATION; ORDER**

**[San Mateo County Superior Court, Case  
No. 19CIV01473]**

17 **RECITALS**

18 The parties to this action, by and through their respective attorneys of record, respectfully  
19 submit the following Stipulation to Extend the Deadline for Fact Discovery, the Disclosure of  
20 Expert Witness Information, and Expert Discovery and Depositions:

21 WHEREAS, Plaintiff initiated this lawsuit on March 14, 2019;

22 WHEREAS, on August 13, 2019 Costco Wholesale Corporation ("Costco") removed this  
23 matter to the Northern District of California;

24 WHEREAS, on August 28, 2019 this matter was assigned to the Honorable Haywood S.  
25 Gilliam, Jr. in the Oakland Division for all proceedings;

26 WHEREAS, on October 29, 2019, the parties met and conferred pursuant to Federal Rule  
27 of Civil Procedure 26(f);

28 WHEREAS, on November 11, 2019 this Court issued a Scheduling Order, which provided

1 the following deadlines:

- 2 1. Close of Fact Discovery: April 17, 2020;
- 3 2. Expert Disclosures: May 2, 2020;
- 4 3. Close of Expert Reports: June 1, 2020;
- 5 4. Dispositive Motion Hearing: July 16, 2020;
- 6 5. Pre-Trial Conference: October 13, 2020;
- 7 6. Jury Trial: October 26, 2020.

8 WHEREAS, on November 11, 2019, Costco served Plaintiff with Requests for  
9 Admissions, Special Interrogatories, and Requests for Production of Documents;

10 WHEREAS, due to various trials and other scheduling conflicts, Plaintiff's counsel  
11 requested an extension of time to respond to the written discovery on December 16, 2019,  
12 December 20, 2019, and January 7, 2020;

13 WHEREAS, Costco received Plaintiff's verified responses on January 21, 2020, and  
14 promptly issued subpoenas to the medical providers Plaintiff identified in his responses to  
15 Costco's written discovery;

16 WHEREAS, Costco still has not received medical records, bills and other documents in  
17 response to the subpoenas that is issued;

18 WHEREAS, based on the surveillance footage of this accident, counsel for Costco  
19 suspects that Plaintiff had a pre-existing medical condition which may have caused Plaintiff's  
20 accident, and therefore needs to acquire those prior records, and potentially depose Plaintiff's prior  
21 treating physicians;

22 WHEREAS, Costco has noticed Plaintiff's deposition for April 7, 2020;

23 WHEREAS, on February 27, 2020 the Court selected Mediator Claudia Leed as the  
24 Mediator assigned to this case

25 WHEREAS, due to various scheduling conflicts with Costco's counsel, Plaintiff's counsel  
26 and Mediator Claudia Leed, the parties were forced to schedule the mediation in this matter to  
27 either June 3, or June 10, which is still being determined;

28 WHEREAS, the parties wish to participate in mediation in good faith, and to devote their

1 efforts at resolving this matter at mediation, and, to that end, wish to perform their Expert  
2 Disclosures after that date so as to preserve those resources for potential resolution;

3 WHEREAS, based on Costco's inability to acquire Plaintiff's prior medical records and  
4 bills, Costco's inability to identify prior treating physicians (and, therefore, depose those  
5 physicians), and the parties' inability, through no fault of their own, to schedule Mediation via the  
6 Court's Mediation Program until June of 2020, the parties require additional time for conducting  
7 fact discovery, and additional time to evaluate which experts they will need to retain pursuant to  
8 F.R.C.P. 26(a)(2)(B), and/or which treating physicians they will present testimony from pursuant  
9 to F.R.C.P. 26(a)(2)(A);

10 WHEREAS, to allow sufficient time to conduct the necessary fact discovery, acquire the  
11 necessary medical and billing records, and conduct the necessary depositions, the parties have  
12 agreed to stipulate to extend the fact discovery deadline from April 17, 2020 to June 17, 2020;

13 WHEREAS, to allow sufficient time to conduct the necessary fact discovery, acquire the  
14 necessary medical and billing records, participate in mediation, and conduct the necessary  
15 depositions, the parties have agreed to stipulate to extend the Expert Disclosure deadline from  
16 May 2, 2020 to July 2, 2020;

17 WHEREAS, to allow sufficient time to conduct the necessary fact discovery, acquire the  
18 necessary medical and billing records, participate in mediation, and conduct the necessary  
19 depositions, the parties have agreed to stipulate to extend the Expert Discovery & Depositions  
20 deadline from June 1, 2020 to August 1, 2020;

21 WHEREAS, the parties do not wish to modify any other deadlines in this matter, and  
22 intend to maintain the currently scheduled dispositive motion hearing deadline of July 16, 2020.

23 WHEREAS, the parties will not be prejudiced by an extension of time to conduct fact  
24 discovery, make their expert disclosures and conduct expert depositions. This is the first such  
25 continuance requested by the parties.

## 26 STIPULATION

27 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the parties hereto  
28 through their respective counsel of record that the current deadline of April 17, 2020 for fact

1 discovery is extended to June 17, 2020, the current deadline of May 2, 2020 for disclosure of  
2 expert witness information, including testimony and reports, is extended to July 2, 2020, and the  
3 current deadline of June 1, 2020 for expert discovery and depositions, is extended to August 1,  
4 2020.

5 **IT IS SO STIPULATED.**

6 DATED: March 12, 2020

JENNY & JENNY, LLP

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8  
9 By: /s/ Scott E. Jenny and /s/ Richard K. Jenny  
10 SCOTT AND RICHARD JENNY

11 Attorney for Plaintiff ERNEST MARSON

12 DATED: March 12, 2020

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14  
15 By: /s/ Jordan M. Meeks  
16 Sharon C. Collier  
17 Jordan M. Meeks

18 Attorneys for Defendant COSTCO WHOLESALE  
19 CORPORATION

20  
21 **ORDER**

22  
23 IT IS SO ORDERED.

24  
25 DATE: 3/13/2020

  
HON. JUDGE HAYWOOD S. GILLIAM, JR.